

**ALASKA STATE LEGISLATURE  
SENATE TRANSPORTATION STANDING COMMITTEE**

April 15, 2021

1:38 p.m.

**MEMBERS PRESENT**

Senator Robert Myers, Chair  
Senator Mike Shower, Vice Chair  
Senator Peter Micciche  
Senator Jesse Kiehl

**MEMBERS ABSENT**

Senator Click Bishop

**COMMITTEE CALENDAR**

**HOUSE BILL NO. 36**

"An Act relating to an application for a license to operate as a dealer in motor vehicles; and requiring a dealer in motor vehicles to maintain liability and property insurance."

- MOVED SCS HB 36(TRA) OUT OF COMMITTEE

**SENATE BILL NO. 103**

"An Act repealing the Alaska Marine Transportation Advisory Board; establishing the Alaska Marine Highway System Operation and Planning Board; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 36

SHORT TITLE: MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE

SPONSOR(s): REPRESENTATIVE(s) CLAMAN

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
03/03/21	(H)	FIN REFERRAL REMOVED
03/03/21	(H)	L&C AT 5:45 PM BARNES 124
03/03/21	(H)	Heard & Held
03/03/21	(H)	MINUTE(L&C)

03/12/21	(H)	L&C AT 3:15 PM BARNES 124
03/12/21	(H)	Moved HB 36 Out of Committee
03/12/21	(H)	MINUTE(L&C)
03/15/21	(H)	L&C RPT 6DP
03/15/21	(H)	DP: SNYDER, NELSON, MCCARTY, SCHRAGE, KAUFMAN, SPOHNHOLZ
03/25/21	(H)	BEFORE HOUSE IN THIRD READING
03/25/21	(H)	TRANSMITTED TO (S)
03/25/21	(H)	VERSION: HB 36
03/26/21	(S)	READ THE FIRST TIME - REFERRALS
03/26/21	(S)	TRA, L&C
04/09/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/09/21	(S)	-- MEETING CANCELED --
04/13/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
04/13/21	(S)	Heard & Held
04/13/21	(S)	MINUTE(TRA)
04/15/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 103

SHORT TITLE: AMHS OPERATION & PLANNING BOARD

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/10/21	(S)	READ THE FIRST TIME - REFERRALS
03/10/21	(S)	TRA
03/25/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/25/21	(S)	Heard & Held
03/25/21	(S)	MINUTE(TRA)
03/30/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/30/21	(S)	Heard & Held
03/30/21	(S)	MINUTE(TRA)
04/08/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
04/08/21	(S)	Heard & Held
04/08/21	(S)	MINUTE(TRA)
04/15/21	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

REPRESENTATIVE MATT CLAMAN

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 36.

LORI WING-HEIER, Director

Division of Insurance

Department of Commerce, Community and Economic Development

**POSITION STATEMENT:** Answered questions on liability insurance requirements in HB 36.

MARTEN MARTENSEN, Owner  
Continental Automobile Group  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 36.

ANDY MILLS, Special Assistant to the Commissioner  
Department of Transportation and Public Facilities (DOTPF)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on SB 103 on behalf of the administration.

ROB CARPENTER, Deputy Commissioner  
Department of Transportation and Public Facilities (DOTPF)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on SB 103 on behalf of the administration.

#### **ACTION NARRATIVE**

[1:38:22 PM](#)

**CHAIR ROBERT MYERS** called the Senate Transportation Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Shower, Kiehl, and Chair Myers. Senator Micciche arrived as the meeting was in progress.

#### **HB 36-MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE**

[1:39:05 PM](#)

**CHAIR MYERS** announced the consideration of HOUSE BILL NO. 36 "An Act relating to an application for a license to operate as a dealer in motor vehicles; and requiring a dealer in motor vehicles to maintain liability and property insurance."

[1:39:38 PM](#)

**CHAIR MYERS** moved to adopt Amendment 1, work order 32-LS0271\A.2:

32-LS0271\A.2  
Fisher  
4/14/21

#### **AMENDMENT 1**

OFFERED IN THE SENATE

BY SENATOR MYERS

TO: HB 36

Page 2, line 29, through page 3, line 2:

Delete all material and insert:

**"Sec. 08.66.085. Insurance requirements.** A dealer in motor vehicles shall maintain liability insurance for bodily injury and property damage on an auto dealer's form."

SENATOR SHOWER objected for discussion purposes.

1:39:55 PM

CHAIR MYERS explained that Amendment 1 was language requested by the sponsor and the Director of the Division of Insurance, Lori Wing-Heier. He asked the sponsor to explain HB 36.

1:40:09 PM

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, Juneau, Alaska, as sponsor of HB 36, explained that Amendment 1 was language recommended by Lori Wing-Heier, Division of Insurance director as appropriate insurance for auto dealers. She also advised that minimum levels of insurance were not necessary because the insurance brokers would determine the right amount of insurance the specific dealer needed based on the volume of sales they had within the market. The key goal was to ensure dealers had insurance but not to mandate any specific level of insurance, he said.

1:41:34 PM

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED, stated that she met with the sponsor to discuss the insurance requirement in HB 36. Amendment 1 will provide the insurance requirement for automobile dealers that the sponsor intended, she said.

1:41:56 PM

SENATOR KIEHL asked about price points for policies because the committee was interested in any increased costs for dealers.

MS. WING-HEIER responded that the division researched premiums for the policies. She stated that premiums for auto dealers are rated on the number of fulltime employees. The annual rate per employee cost would be approximately \$600 in Anchorage, \$350 in Fairbanks and \$300 for all other areas of the state. In addition, there would be loss cost multipliers (LCMs) to

add and other factors, such as whether the employer had previous claims. She stated that the sponsor wanted liability insurance at \$100,000 per accident with a \$200,000 policy limit and a separate limit for property damage. She noted that she could not find an insurer that would write less than \$1 million. She offered her belief that the rates would probably double the current dealer insurance rates. In addition, some insurance companies have a minimum insurance premium. It would be possible to have one fulltime employee and still pay \$2,500.

[1:43:55 PM](#)

CHAIR MYERS asked if that is per month.

MS. WING-HEIER answered the rates were for annual policy amounts. Premiums would be based on what the company underwrites. For example, the insurance premium for a dealer with four employees at \$600 each would total \$2,400. In this instance, the rates were based on fulltime employees.

[1:44:35 PM](#)

SENATOR SHOWER offered his view that the rates did not seem onerous. She asked what kind of impacts or barriers she foresaw for small businesses. He wondered if she had done any analysis.

MS. WING-HEIER answered that she had not done so. She offered her belief that established businesses would receive better rates than a new dealer because the insurance company could review their claims.

SENATOR SHOWER expressed concern that the capital outlay could be burdensome and create a barrier for a person who is just starting a business.

[1:46:10 PM](#)

SENATOR MICCICHE joined the meeting.

[1:46:24 PM](#)

REPRESENTATIVE CLAMAN outlined that the economic cost to become an auto dealer falls into two categories: the bond cost and the insurance cost. Currently, the cost of obtaining a bond of \$50,000 is \$500 to \$1,000, depending on creditworthiness. An estimated increased cost of going from a \$50,000 to \$100,000 bond was \$1,000 to \$2,500. He clarified that he did not ask about the charge. He explained that typically the bond is sold by the same broker, so the minimum

coverage might be less because the dealer would be buying the bond and insurance from the same broker. He estimated the total cost would range from \$2,500 to \$4,000 for someone initially starting a dealership. He said it strikes him as reasonable consumer protection considering that people would be spending from \$15,000 to \$30,000 for a used car.

[1:48:14 PM](#)

CHAIR MYERS asked whether the costs would be too high for entry-level auto dealers.

[1:48:48 PM](#)

MARTEN MARTENSEN, Owner, Continental Automobile Group, Anchorage, Alaska, related a scenario in which a wheel fell off while a driver was test driving a vehicle advertised on craigslist. MS. WING-HEIER answered the rates were for annual policy amounts. Premiums would be based on what the company underwrites. For example, the insurance premium for a dealer with four employees at \$600 each would total \$2,400. In this instance, the rates were based on fulltime employees. He related his understanding that every legitimate dealer has liability insurance and garage policies to protect themselves in the event of an accident. When Continental Auto takes a vehicle in trade, the dealer performs any reconditioning needed. If something goes wrong, the dealer needs that insurance coverage as protection. At a minimum, state law requires all vehicle owners to have liability insurance. He offered his belief that requiring liability insurance would not pose a barrier for anyone entering the car business; that's just something dealers must provide.

[1:50:17 PM](#)

CHAIR MYERS related his understanding that HB 36 would effectively put what is already happening into statute.

MR. MARTENSEN answered that legitimate auto dealers carry liability insurance.

[1:50:45 PM](#)

SENATOR KIEHL pointed to a reputable dealer with a different business model. This dealer is not exclusively a car dealer but operates a boutique business on a very small scale geared toward a higher quality product. He stated that Amendment 1 would impose an increased obligation and cost for this dealer. He asked members to contemplate this. He said he would not object to Amendment 1, but he hoped to work with the Division of Insurance and the sponsor to explore lower-cost options to

provide the minimum coverage. He stated that this remains a concern as the bill moves forward.

[1:51:45 PM](#)

REPRESENTATIVE CLAMAN pointed out that Mr. Martensen brought up a good point. He highlighted the situation of an uninsured driver test driving a vehicle. He stated there should be protection for someone hit by an uninsured driver. That car should be insured just as his car is insured. If a driver test drives a car from the boutique dealer Senator Kiehl mentioned and the wheel falls off, it is due to a problem with the vehicle. If the driver is severely injured in that instance, the notion that the boutique dealer could operate without insurance would be troubling to the average consumer. The average consumer would expect a dealer to stand behind the defective vehicle, which is why liability insurance should be required.

[1:53:10 PM](#)

SENATOR KIEHL agreed that uninsured motorists are problematic. He offered to continue to work on the issue going forward due to his concerns. He acknowledged that the potential insurance costs would more than double, so he would continue to contemplate it.

[1:53:45 PM](#)

SENATOR MICCICHE offered his belief that the proposed insurance required by Amendment 1 appeared to be basic insurance coverage. He stated that he has insurance on every vehicle he owns. He said he wanted to be certain he understood Amendment 1. He asked what the difference was between the very basic level of insurance and Amendment 1.

[1:54:47 PM](#)

CHAIR MYERS explained that Amendment 1 was recommended by the division. Currently, the bill takes the language aimed at an individual and applies it to a business. Amendment 1 would change the liability insurance requirements to better apply to businesses. The insurance company set the minimum requirements, not by statute.

[1:55:24 PM](#)

SENATOR MICCICHE asked why the language "death" was being removed from AS 08.66.085. It previously read, "for injury, including death for any one person..." He asked whether the assumption was that the insurance for an auto dealer would include that level of protection.

REPRESENTATIVE CLAMAN deferred to Ms. Wing-Heier.

MS. WING-HEIER responded that the insurance policies currently have a single limit of \$1 million, whereas personal auto coverage is \$50,000 per person, \$100,000 per accident and \$25,000 for property damage. Amendment 1 would require the \$1 million limit, which includes bodily injury, including death.

[1:56:48 PM](#)

SENATOR MICCICHE asked what the cost increase will be to auto dealers.

MS. WING-HEIER replied that it was impossible to find an insurance company to write a policy for less than \$ 1 million. She suggested that the minimum premiums would likely run about \$2,500, whether the dealer has one employee or four employees. She said insurance companies or brokers could not afford to write policies for less. She indicated that the base rate could be \$600 for an auto dealer with one employee in Anchorage.

SENATOR MICCICHE asked whether these fees were for annual premiums.

MS. WING-HEIER answered yes.

[1:58:07 PM](#)

SENATOR SHOWER removed his objection.

There being no further objection, Amendment 1 was adopted.

[1:58:37 PM](#)

SENATOR MICCICHE commented that he heard from several auto dealers in his region. He offered that HB 36 was not a burdensome bill. For example, if one of his daughters were to test drive a vehicle, he would want the dealer to be reputable, one who could be located if something went wrong, and one who has insurance coverage for test drives. He said he was worried about the cost of entry for smaller dealers. However, it seemed as though most held this level of insurance anyway. He offered his view that the provisions in HB 36 were not burdensome and seemed fair.

CHAIR MYERS asked the will of the committee.

[1:59:57 PM](#)



SENATOR SHOWER moved to report HB 36, work order 32-LS0271/ as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR MYERS found no objection and SCS HB 36(TRA) was reported from the Senate Transportation Standing Committee. He stated that Legislative Legal is directed to make any changes to the language, including technical, conforming, or bill title changes to accomplish the intent of any conceptual changes to the bill.

2:00:31 PM

At ease

**SB 103-AMHS OPERATION & PLANNING BOARD**

2:02:40 PM

CHAIR MYERS reconvened the meeting and announced the consideration of SENATE BILL NO. 103 "An Act repealing the Alaska Marine Transportation Advisory Board; establishing the Alaska Marine Highway System Operation and Planning Board; and providing for an effective date."

2:03:22 PM

SENATOR KIEHL moved to take up Amendment 11, 32-GS1649\A.4, which was previously tabled.

32-GS1649\A.4  
Fisher  
4/2/21

**AMENDMENT 11**

OFFERED IN THE SENATE

BY SENATOR KIEHL

TO: SB 103

Page 4, following line 25:

Insert a new subsection to read:

"(e) Not later than August 1 of each year, the board shall submit proposed operating and capital budgets for the Alaska marine highway system for the next fiscal year to the governor and to the senate secretary and chief clerk of the house of representatives and notify the legislature that the proposed budgets are available."

Reletter the following subsection accordingly.

Page 5, line 21:

Delete "AS 19.65.280"

Insert "AS 19.65.280(d)"

CHAIR MYERS removed his objection [from the April 8, 2021, hearing when the measure was tabled].

2:03:44 PM

SENATOR KIEHL moved to adopt Conceptual Amendment 1 to Amendment 11, to change the date from August 1 to October 1.

CHAIR MYERS objected for discussion purposes.

2:04:06 PM

SENATOR KIEHL stated that the committee had previously discussed the date. He offered his view that the department indicated October 1 would be a more workable date.

CHAIR MYERS asked Mr. Mills to respond.

2:04:29 PM

ANDY MILLS, Special Assistant to the Commissioner, Department of Transportation and Public Facilities (DOTPF), Juneau, Alaska, stated that the rationale the department used was to provide two months from the start of a new fiscal year for preparation and resources to be supplied to the board. It would allow two and one-half months until the governor's proposed budget was released. The department considered it to be "meeting in the middle."

CHAIR MYERS removed his objection. There being no further objection, Conceptual Amendment 1 to Amendment 11 was adopted.

CHAIR MYERS stated that Amendment 11, as amended, was before the committee.

2:05:32 PM

SENATOR MICCICHE stated that currently, the duties and powers do not include budgeting. He asked if it was an appropriate role of the board to provide proposed budgeting for AMHS or if it would be an obstacle for the board's primary mission. He asked for clarification on the intent.

SENATOR KIEHL offered his view that it would be an excellent complement to the Operating and Planning Board (OPB) because budgets are policy documents. He stated there is no better way

to understand how something works than to review spending fully. For the board to obtain the most detailed and thorough understanding of the Alaska Marine Highway System and how it accomplishes its mission, OPB must understand its budget and spending. The governor will retain all constitutional powers to propose the final budget.

[2:07:13 PM](#)

CHAIR MYERS removed his objection.

[2:07:25 PM](#)

SENATOR MICCICHE objected. He asked the Department of Transportation and Public Facilities (DOTPF) how AMHS's budgeting would mesh with OPB's role.

[2:07:57 PM](#)

ROB CARPENTER, Deputy Commissioner, Department of Transportation and Public Facilities (DOTPF), Juneau, Alaska, responded that the language in the final bill will determine the board's responsibilities. As far as process, the agency will be working on the proposed budget. He said he fully expects the board to discuss the budget. DOTPF does not have a position as to whether it should be a board requirement. He thought it would be remiss for the board not to hold discussions on financial aspects of AMHS. He said it would all come down to the governor's budget proposal. He was unsure whether the department would consider this as a need, but the board would consider AMHS's budget either way.

[2:09:16 PM](#)

SENATOR SHOWER stated that this would give the board sufficient power to move AMHS to a sustainable model. He wondered if any efforts were duplicated and if this was the right direction, but if some of these changes are not made, it means doing things the same way. He stated that he was leaning in favor of Amendment 11, but he understood the concern.

[2:11:17 PM](#)

SENATOR MICCICHE expressed concern about setting up an expectation for a board that's not a corporate board. The committee has discussed the next step. He said he would like to see an Alaska Railroad Corporation model used in the future. He said he hoped OPB might achieve this. It may depend on who is elected as the next governor. Since this budget would hold some weight, he would prefer the language suggested or recommended instead of proposed. He pointed out that OPB is not an elected board and it may set up an unsustainable

expectation. He acknowledged that members each have a vision of what OPB will do and that vision may vary among members.

2:13:17 PM

SENATOR SHOWER asked whether "proposed" means it is just a proposal; that the governor will ultimately decide on the budget.

SENATOR KIEHL answered yes. He related his understanding that this board would suggest the budget. He recalled that constitutional language for the Board of Education gives it the power to set or approve the budget that is binding. He said he used "proposed" to clarify that since OPB is an advisory board, it will propose the budget, but the governor and the Office of Management and Budget (OMB) will send a proposed budget to the legislature.

2:14:55 PM

SENATOR MICCICHE removed his objection. There being no further objection, Amendment 11, as amended, was adopted.

2:15:30 PM

SENATOR SHOWER moved to take up Amendment 9, 32-GS1649\A.9, which was previously tabled.

32-GS1649\A.9  
Fisher  
4/2/21

#### AMENDMENT 9

OFFERED IN THE SENATE  
TO: SB 103

BY SENATOR SHOWER

Page 1, line 2, following "Board;"

Insert "relating to the powers and duties of the Alaska Marine Highway System Operation and Planning Board and the commissioner of transportation and public facilities;"

Page 3, lines 20 - 25:

Delete all material and insert:

"Sec. 19.65.280. Powers, duties, and functions.

(a) The commissioner of transportation and public facilities in conjunction with the board shall, without regard to political affiliation, solicit, interview, and recruit the head of the division of

marine transportation, who shall report to and function at the direction of the board."

CHAIR MYERS stated that Amendment 9 was before the committee.

2:15:50 PM

SENATOR SHOWER read Amendment 9. He stated that there is precedent on boards. He said he requested an opinion from the Department of Law on how the Board of Fisheries operates but he had not heard back. He pointed out the Department of Education says "The board shall appoint the commissioner of education and early development subject to the approval of the governor. The commissioner serves at the pleasure of the board and may not be appointed for a fixed term." He said if the committee would like to give the board more power, it could be left to the board's discretion. Another approach could be to add language "and the commissioner" to indicate that the director works for the board, but also reports to the commissioner. He asked the committee to consider which direction to go.

2:19:10 PM

SENATOR KIEHL expressed concern that Amendment 9 raises a constitutional issue. He said he requested Legislative Legal Services to draft something similar to Amendment 9. Ultimately, the attorneys convinced him it could not be done because the Boards of Fisheries and Game and the Department of Education and Early Development are under Art. III, Sec. 26 of the Alaska Constitution, which indicates the board heads the department and is confirmed by the legislature.

SENATOR SHOWER responded that was why he asked for alternate methods. He suggested a half step would be to add "and the commissioner" which may prevent a constitutional challenge. He indicated that this language might help bridge the concern and it may be worth going through with a challenge.

2:21:30 PM

SENATOR MICCICHE stated that this board is an interim board that will get the legislature to the next step. He expressed concern that this board has the structural authority to operate AMHS. He said he would like to get there. He offered his view that this tries to drag a subject-matter board to suggest fundamental changes to how AMHS operates, its vessels, and routes and convert it into a relatively new one. He offered support for an independent AMHS structure. He said he viewed SB 103 as the halfway point. Further, he agreed that

the legislature had not gotten anywhere. He offered his belief that OPB can provide the expertise to identify recommended changes. Then a final solution could be made to operate the board independently. However, he did not believe Amendment 9 was the right direction to take at this time.

[2:23:45 PM](#)

SENATOR SHOWER offered his belief that it was problematic to have AMHS under the commissioner and that the board lacked sufficient authority. He expressed concern that this board will not affect change because it will still be up to the commissioner to make the final decisions. He offered his belief that it was time to get something done since the state does not have two, three, or five years to change the direction of AMHS.

SENATOR SHOWER withdrew Amendment 9.

[2:25:19 PM](#)

SENATOR MICCICHE said he was not concerned about the constitutional issues. He stated that the committee changed SB 103 by adding legislative appointees to OPB, which will move the process forward. He offered his belief that this expert board with its authority can propose AMHS's budget, which will help the ferry system rely less and less on the state over time. This board will demand better results, he said.

CHAIR MYERS held SB 103 in committee.

[2:27:42 PM](#)

There being no further business to come before the committee, Chair Myers adjourned the Senate Transportation Standing Committee meeting at 2:27 p.m.